

UTAH STATE RAILROAD MUSEUM

AUTHORITY

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Neil A. Hansen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the "Utah State Railroad Museum Authority."

Highlighted Provisions:

This bill:

- ▶ creates the "Utah State Railroad Museum Authority" and establishes its membership and procedures;
- ▶ establishes the powers and duties of the executive director and the authority;
- ▶ clarifies that the authority's financial obligations are not obligations of the state;
- ▶ clarifies that the authority is responsible for the maintenance of its properties; and
- ▶ exempts the authority and its operators from state sales and use tax.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

9-3-501, Utah Code Annotated 1953

9-3-502, Utah Code Annotated 1953

9-3-503, Utah Code Annotated 1953



28 **9-3-504**, Utah Code Annotated 1953
29 **9-3-505**, Utah Code Annotated 1953
30 **9-3-506**, Utah Code Annotated 1953
31 **9-3-507**, Utah Code Annotated 1953
32 **9-3-508**, Utah Code Annotated 1953
33 **9-3-509**, Utah Code Annotated 1953
34 **9-3-510**, Utah Code Annotated 1953
35 **9-3-511**, Utah Code Annotated 1953

37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **9-3-501** is enacted to read:

39 **Part 5. Utah State Railroad Museum Authority**

40 **9-3-501. Title.**

41 This part is known as the "Utah State Railroad Museum Authority."

42 Section 2. Section **9-3-502** is enacted to read:

43 **9-3-502. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and**
44 **expenses.**

45 (1) There is created an independent state agency and a body politic and corporate
46 known as the "Utah State Railroad Museum Authority."

47 (2) The authority shall be composed of 11 members as follows:

48 (a) one member of the county legislative body of Weber County;

49 (b) one member of the county legislative body of Box Elder County;

50 (c) the executive director of the Utah Transit Authority or the director's designee;

51 (d) the executive director of the Department of Transportation or the director's
52 designee;

53 (e) three public members appointed by the governor with the consent of the Senate,
54 being private citizens of the state, as follows:

55 (i) two persons representing the tourism industry, one each from Weber and Box Elder
56 counties; and

57 (ii) one person representing the public at large; and

58 (f) four persons representing railroad historic and heritage preservation organizations

active in Weber and Box Elder counties, as follows:

(i) one person representing the Railroad and Locomotive Historical Society Golden Spike Chapter;

(ii) one person representing the Union Station Foundation;

(iii) one person representing the Golden Spike Heritage Foundation; and

(iv) one person representing the Golden Spike Historic Site.

(3) All members shall be residents of the state.

(4) (a) Except as required by Subsection (4)(b), the three public members shall be appointed for four-year terms beginning July 1.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members are staggered so that approximately half of the authority is appointed every two years.

(5) Any of the three public members may be removed from office by the governor or for cause by an affirmative vote of six members of the authority.

(6) When a vacancy occurs in the public membership for any reason, the replacement shall be appointed for the unexpired term by the governor with consent of the Senate for the unexpired term.

(7) Each public member shall hold office for the term of the member's appointment and until a successor has been appointed and qualified.

(8) A public member is eligible for reappointment, but may not serve more than two full consecutive terms.

(9) The governor shall appoint the chair of the authority from among its members.

(10) (a) The members shall elect from among their number a vice chair and other officers as they may determine.

(b) The officers serve as the executive committee for the authority.

(11) The powers of the authority shall be vested in its members.

(12) (a) Six members constitute a quorum for transaction of authority business.

(b) An affirmative vote of at least six members is necessary for any action to be taken by the authority.

(13) (a) (i) A member who is not a government employee shall receive no

90 compensation or benefits for the member's services, but may receive per diem and expenses
91 incurred in the performance of the member's official duties at the rates established by the
92 Division of Finance under Sections 63A-3-106 and 63A-3-107.

93 (ii) A member who is not a government employee may decline to receive per diem and
94 expenses for the member's services.

95 (b) (i) State government officer and employee members who do not receive salary, per
96 diem, or expenses from their agency for their service may receive per diem and expenses
97 incurred in the performance of their official duties from the authority at the rates established by
98 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

99 (ii) State government officer and employee members may decline to receive per diem
100 and expenses for their services.

101 (c) (i) Local government members who do not receive salary, per diem, or expenses for
102 their service from the entity that they represent may receive per diem and expenses incurred in
103 the performance of their official duties at the rates established by the Division of Finance under
104 Sections 63A-3-106 and 63A-3-107.

105 (ii) Local government members may decline to receive per diem and expenses for their
106 services.

107 Section 3. Section **9-3-503** is enacted to read:

108 **9-3-503. Executive director -- Powers and duties.**

109 (1) (a) The members of the authority shall appoint an executive director who shall be
110 an employee of the authority, but who may not be a member of the authority.

111 (b) The executive director serves at the pleasure of the members and receives
112 compensation as set by the members and approved by the governor.

113 (2) The executive director shall:

114 (a) administer, manage, and direct the affairs and activities of the authority in
115 accordance with the policies, control, and direction of the members of the authority;

116 (b) approve all accounts for allowable expenses of the authority or of any of its
117 employees and expenses incidental to the operation of the authority;

118 (c) attend the meetings of the authority;

119 (d) keep a record of the proceedings of the authority;

120 (e) maintain and be custodian of all books, documents, and papers filed with the

121 authority;

122 (f) document and maintain records concerning ownership of all assets owned or under
123 the control of the authority; and

124 (g) perform other duties as directed by the members in carrying out the purposes of this
125 part.

126 Section 4. Section **9-3-504** is enacted to read:

127 **9-3-504. Member or employee -- Disclosure of interest.**

128 (1) A member or employee of the authority who has, will have, or later acquires an
129 interest, direct or indirect, in any transaction with the authority shall immediately disclose the
130 nature and extent of that interest in writing to the authority as soon as the individual has
131 knowledge of the actual or prospective interest.

132 (2) This disclosure shall be entered upon the minutes of the authority.

133 (3) Upon this disclosure that member or employee may participate in any action by the
134 authority authorizing the transaction.

135 Section 5. Section **9-3-505** is enacted to read:

136 **9-3-505. Officer or employee -- No forfeiture of office or employment.**

137 Notwithstanding the provisions of any other law, an officer or employee of this state
138 does not forfeit the office or employment with the state by reason of acceptance of membership
139 on the authority or service on it.

140 Section 6. Section **9-3-506** is enacted to read:

141 **9-3-506. Authority -- Powers.**

142 (1) The authority shall facilitate:

143 (a) or operate and maintain a scenic and historic railroad in and around Weber and Box
144 Elder counties;

145 (b) or operate and maintain one or more railroad history museums in and around Weber
146 and Box Elder counties;

147 (c) the restoration, preservation, and public display of railroad artifacts and heritage in
148 and around Weber and Box Elder counties; and

149 (d) the restoration, preservation, and operation of historically significant railroad
150 related properties in and around Weber and Box Elder counties for public benefit.

151 (2) The authority has perpetual succession as a body politic and corporate and may:

152 (a) adopt, amend, and repeal policies and procedures for the regulation of its affairs and
153 the conduct of its business;

154 (b) sue and be sued in its own name;

155 (c) maintain an office at any place or places within this state it may designate;

156 (d) adopt, amend, and repeal bylaws and rules, not inconsistent with this part, to carry
157 into effect the powers and purposes of the authority and the conduct of its business;

158 (e) purchase, lease, sell, and otherwise dispose of property and rights-of-way;

159 (f) employ experts and other professionals it considers necessary;

160 (g) employ and retain independent legal counsel;

161 (h) make and execute contracts and all other instruments necessary or convenient for
162 the performance of its duties and the exercise of its duties under this part as described in
163 Subsection (1);

164 (i) procure insurance for liability and against any loss in connection with its property
165 and other assets in amounts and from insurers it considers desirable;

166 (j) receive appropriations from the Legislature and receive other public moneys and
167 accept aid or contributions from any source of money, property, labor, or other things of value
168 to be held, used, and applied to carry out the purposes of this part, subject to the conditions
169 upon which the grants and contributions are made, including gifts or grants from any
170 department, agency, or instrumentality of the United States or of this state for any purpose
171 consistent with this part;

172 (k) enter into agreements with any department, agency, or instrumentality of the United
173 States or this state for the purpose of providing for the operation and maintenance of a scenic
174 railway in and around Weber and Box Elder counties; and

175 (l) do any act necessary or convenient to the exercise of the powers granted by this part.

176 (3) (a) (i) All monies received by the authority under Subsection (2)(j) and from any
177 other source shall be for the exclusive use of the authority in the performance and exercise of
178 its duties under this part as described in Subsection (1).

179 (ii) The monies received by the authority may not be used for any other purpose or by
180 any other entity.

181 (b) Entities receiving grants or in-kind support from the authority may solicit and
182 receive monies from other sources and utilize that money in any way they see fit to support

183 their charter.

184 Section 7. Section **9-3-507** is enacted to read:

185 **9-3-507. Notes, bonds, other obligation -- Not debt liability -- Expenses payable**
186 **from funds provided -- Agency without authority to incur liability on behalf of state.**

187 (1) An obligation or liability of the authority does not constitute a debt or liability of
188 this state or of any of its political subdivisions nor does any obligation or liability constitute the
189 loaning of credit of the state or of any of its political subdivisions nor may any obligation or
190 liability of the authority be payable from funds other than those of the authority.

191 (2) All obligations of the authority shall contain a statement to the effect:

192 (a) that the authority is obligated to pay them solely from the revenues or other funds of
193 the authority;

194 (b) that neither this state nor its political subdivisions are obligated to pay them; and

195 (c) that neither the faith and credit nor the taxing power of this state or any of its
196 political subdivisions is pledged to the payment of them.

197 (3) Expenses incurred in carrying out this part are payable solely from funds of the
198 authority provided under this part, and nothing in this part authorizes the authority to incur
199 indebtedness or liability on behalf of or payable by this state or any of its political subdivisions.

200 Section 8. Section **9-3-508** is enacted to read:

201 **9-3-508. Relation to certain acts.**

202 (1) The authority is exempt from:

203 (a) Title 51, Chapter 5, Funds Consolidation Act;

204 (b) Title 63, Chapter 38, Budgetary Procedures Act;

205 (c) Title 63, Chapter 56, Utah Procurement Code;

206 (d) Title 63A, Chapter 1, Department of Administrative Services; and

207 (e) Title 67, Chapter 19, Utah State Personnel Management Act.

208 (2) The authority is subject to audit by the state auditor pursuant to Title 67, Chapter 3,
209 and by the legislative auditor general pursuant to Section 36-12-15.

210 Section 9. Section **9-3-509** is enacted to read:

211 **9-3-509. Duty to maintain rails and operating equipment.**

212 (1) The authority shall maintain the rails, bed, right-of-way, and related property owned
213 by the authority upon which the authority's train operates in compliance with state and federal

statutes, rules, and regulations.

(2) The authority shall require any party from whom it leases, or otherwise utilizes rails, bed, right-of-way, motive power, rolling stock, and related property that the property be delivered and maintained in compliance with state and federal statutes, rules, and regulations.

Section 10. Section **9-3-510** is enacted to read:

9-3-510. Lease of rails or equipment from Department of Transportation and Division of Parks and Recreation.

The Department of Transportation and the Division of Parks and Recreation shall jointly lease the rails, bed, right-of-way, and related property for not more than \$1 per year to the authority.

Section 11. Section **9-3-511** is enacted to read:

9-3-511. Sales tax exemption.

The authority and its operators are exempt from sales and use tax imposed under Title 59, Chapter 12, Sales and Use Tax Act.

Legislative Review Note
as of 2-13-08 4:07 PM

Office of Legislative Research and General Counsel

H.B. 444 - Utah State Railroad Museum Authority

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill could reduce the General Fund by \$46,500 annually.

	<u>FY 2008 Approp.</u>	<u>FY 2009 Approp.</u>	<u>FY 2010 Approp.</u>	<u>FY 2008 Revenue</u>	<u>FY 2009 Revenue</u>	<u>FY 2010 Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$46,500)	(\$46,500)
Total	\$0	\$0	\$0	\$0	(\$46,500)	(\$46,500)

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individual or businesses. Local governments could see a reduction in sales tax revenue of \$15,000 annually.